

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Lutz LOHMANN

Appl. No: 10/702,093

Confirmation No: 8019

Filed: November 6, 2003

For: METHOD AND DEVICE FOR
MONITORING AN AREA OF
COVERAGE

Art Unit: 2621

Examiner: Erick J. Rekstad

Atty. Docket No: 38412-198025

Customer No:

26694

PATENT TRADEMARK OFFICE

Request for Recalculation of Patent Term Adjustment
under 37 C.F.R. §1.705(d)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant requests review of the Patent Term Adjustment (PTA) calculation for the above-identified application, because the term adjustment may be longer than indicated. Applicant submits this request within two months of the patent's issuance in compliance with 37 C.F.R. §1.705(d). This request raises issues that could not have been raised in response to the Notice of Allowance of April 6, 2009 (as the PTA calculation issue occurred after the issue fee was paid and once a patent issuance date was established).

I. Fee

In accordance with 37 CFR 1.705 (b)1, Applicant herewith submits the fee set forth in §1.18(e) for filing this request.

II. Statement of Facts

The patent stemming from the above-identified application issued on July 28, 2009. The Notice of Allowance for the above-identified application, dated April 6, 2009, indicates a Patent Term Adjustment of 945 days. In view of the decision in *Wyeth v. Dudas*, 2008 U.S. Dist. Lexis 76063 (D.D.C., Sept. 30, 2008), the Applicant believes that the correct determination is currently 1614 days (the “A” delays minus Applicant’s delay) *plus* the amount of unaccounted for days between November 6, 2006 (three years from the filing date) and July 28, 2009, the date upon which the above-identified application issued as a patent (the “B” delays).

Applicant believe that the application is entitled to the delays as follows:

Number of PTA Days	Dates
+ 988 days	Days between <u>January 6, 2005</u> and <u>September 21, 2007</u> : This represents the delay of the Patent Office from the 14 month after the filing date of the application to the first Action by the Patent Office.
- 50 days	Days between <u>September 27, 2007</u> and <u>November 16, 2007</u> : This represents the

	Applicant's delay in submitting an IDS 50 days after responding to the Action of September 21, 2009.
+ 676 days	Days between <u>September 21, 2007</u> and <u>July 28, 2009</u> : This represents the unaccounted for delay days of the PTO for the application's pendency after the three-year date of November 6, 2006 to the day the patent issued.

Applicant respectfully requests the PTO to review the PTA calculation and advise the undersigned of the result. Applicant respectfully submits that the application is entitled to an additional **669** days ($1614 - 945 \text{ days} = 669 \text{ days}$).

This application is not subject to a terminal disclaimer. Applicant submits that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

Please charge our deposit account number 22-0261 for the \$200 petition fee, referencing our docket number 38412-198025. It is not believed that any further fees are due, but in the event that such fees are necessary, the Office is authorized to charge our deposit account number 22-0261, referencing our docket number 38412-198025.

Dated: September 21, 2009

Respectfully submitted,

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